

**REMARKS**

In this Amendment, claims 20, 22 and 29 are amended. After entry of this Amendment, claims 20-24, 26-30, 32 and 33 will be pending in the application.

Claims 20 and 22 have been amended to use the transitional phrase “comprise,” as opposed to Markush language. These amendments are supported by the specification at page 14, lines 11-13, for example.

Dependent claim 29 has been amended to correspond with independent claim 20, and therefore recites a program “that calculates protein sequence-based attributes, wherein said protein sequence-based attributes comprise: percentage of charged amino acids, percentage hydrophobicity, distance of protein sequence from a fixed reference frame, measure of dipeptide complexity, and measure of hydrophobicity from a fixed reference frame.”

No new matter has been added.

Entry of this Amendment is respectfully requested.

**I. Response to the Objection to Claim 20**

At page 2 of the Office Action, claim 20 is objected to because the phrase “selected from a group consisting of” should be “selected from the group consisting of.”

While the Examiner is correct, the amendments to the claims have rendered the objection moot.

**II. Claim Rejections Under 35 USC §112, First Paragraph**

(1) At page 3 of the Office Action, claim 29 is rejected under 35 USC §112, first paragraph, as not being supported by an adequate written description.

Specifically, the Examiner states that “DISTANCE program,” as recited in claim 29, is not sufficiently described in the specification. In support of this rejection, the Examiner refers to page 13 of the specification stating: “a specially developed computer program ‘DISTANCE’ was used for computation,” and page 12 of the specification stating: “Using the rationale described above we have developed the data mining software and a software copyright has been filed.”

The Examiner acknowledges that the specification describes the steps performed in the computer-based method, provides examples of input and output formats for DISTANCE, and describes calculations performed in the method. However, the Examiner asserts that the specification does not sufficiently describe the computational steps of the DISTANCE program.

Amended claim 29 does not recite the DISTANCE program, but recites a program performing the calculations recited in the independent claim (claim 20).

Accordingly, withdrawal of this rejection is requested.

(2) At page 4 of the Office Action, claims 20-24, 26-30, and 32-33 are rejected under 35 USC §112, first paragraph, as not being sufficiently enabled by the specification.

The Examiner states that the specification is enabling for a method of identifying a candidate protein useful as an anti-infective that “comprises” calculating the protein sequence-based attributes: percentage of charged amino acids, percentage hydrophobicity, distance of protein sequence from a fixed reference frame, measure of dipeptide complexity, and measure of hydrophobicity from a fixed reference frame.

The Examiner states that the specification does not reasonably provide enablement for identifying a candidate protein useful as an anti-infective by calculating one or less than all of the protein sequence-based attributes listed above.

Amendment under 37 C.F.R. § 1.111  
USSN 09/820,843

Independent claim 20 has been amended to be commensurate in scope with the subject matter that the Examiner states is enabled by the specification. That is, claim 20 recites:

“wherein said protein sequence-based attributes comprise: percentage of charged amino acids, percentage hydrophobicity, distance of protein sequence from a fixed reference frame, measure of dipeptide complexity, and measure of hydrophobicity from a fixed reference frame.”

Withdrawal of this rejection is therefore respectfully requested.

### **III. Conclusion**

In view of the above, allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue which the Examiner feels can be resolved through a telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

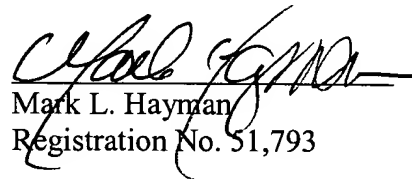
Respectfully submitted,

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WASHINGTON OFFICE

**23373**

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